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7 *Representing the United States of America*

8 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 -oOo-

10 **UNITED STATES OF AMERICA,**

Case No.: 2:15-cr-00014-APG-VCF

11 **Plaintiff,**

GOVERNMENT'S RESPONSE IN
OPPOSITION TO DEFENDANT
QAZI'S MOTION TO DISMISS FOR
LACK OF SUBJECT MATTER
JURISDICTION [ECF No. 448]

12 **vs.**

13 **OMAR QAZI,**

14 **Defendant.**

15 The United State of America, by and through DAYLE ELIESON, United States
16 Attorney, and ALEXANDRA MICHAEL and PATRICK BURNS, Assistant United
17 States Attorneys, hereby respectfully submits this Government's Response in Opposition
18 to Defendant Qazi's Motion to Dismiss for Lack of Subject Matter Jurisdiction [ECF No.
19 448].

20 **POINTS AND AUTHORITIES**

21 **I. Relevant Procedural Background**

22 Defendant Omar Qazi (Qazi) is charged in a single count indictment with being a
23 felon in possession of a firearm on January 6, 2015. His DNA was recovered from the

1 firearm and he gave a recorded statement confessing his guilt. Qazi is currently
2 scheduled to be tried on the one-count indictment in this case beginning on July 30, 2018.
3 On June 28, 2018, Qazi filed this motion styled, "Motion to Dismiss for Lack of Subject
4 Matter Jurisdiction." ECF No. 448. The Government's response in opposition follows.

5 **II. Argument**

6 **A. Qazi's Motion is Untimely and Duplicative**

7 Qazi's Motions deadline, including Motions to Dismiss, was October 25, 2016.¹
8 Qazi has not provided any reason let alone good cause for filing his Motion nearly twenty
9 (20) months after the deadline. Trial is currently set to commence on July 30, 2018 and
10 therefore any Motions filed at this point, especially Motions that have been previously
11 considered and ruled on by this Court, should be denied outright as untimely and as an
12 attempt to delay trial.

13 **B. Qazi's Motion Has Already Been Litigated, Including to the Ninth
14 Circuit, and Should be Denied.**

15 Qazi's Motion is titled Motion to Dismiss for Lack of Subject Matter Jurisdiction
16 but its content and relief sought relates to his pretrial detention. At this point, Qazi has
17 litigated his pretrial detention extensively. The Ninth Circuit affirmed this Court's order
18 of detention on February 12, 2018. *United States v. Qazi*, No. 17-10478, 2018 WL 841667
19 (9th Cir. 2018).² Magistrate Judge Leen's underlying order, ECF No. 325, addressed
20 Qazi's argument, which he makes again in the instant Motion, regarding the Bail Reform
21 Act of 1984.³ In the order, Magistrate Judge Leen found that his argument had been

22 ¹ ECF No. 213.

23 ² Qazi filed a Petition for Certiorari on July 6, 2018.

24 ³ ECF No. 325 at 15-16.

1 addressed and rejected by the only courts of appeal which have considered the issue.⁴

2 As such, the Court should deny this Motion.

3 **II. Conclusion**

4 WHEREFORE, after consideration of the included facts, points, authorities,
5 exhibits, and arguments, the United States respectfully requests that this Court DENY
6 Qazi's Motion to Dismiss for Lack of Subject Matter Jurisdiction [ECF No. 448].

7 DATED this 12th day of July, 2018.

8 Respectfully submitted,

9 DAYLE ELIESON
10 United States Attorney

11 //s//

12 ALEXANDRA MICHAEL
13 PATRICK BURNS
14 Assistant United States Attorneys

23 ⁴ *Id.*

CERTIFICATE OF SERVICE

I certify that I am an employee of the United States Attorney's Office. A copy of the foregoing **GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT QAZI'S MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION [ECF No. 448]** was sent to Defendant Qazi via United States mail addressed to:

Mr. Omar Qazi #49760048
NSDC 2190 East Mesquite Avenue
Pahrump, Nevada, 89060

and on stand-by counsel Telia Williams, Esq., via electronic service by ECF, on July 12, 2018.

DATED this 12th day of July, 2018.

/ s / Alexandra Michael

ALEXANDRA MICHAEL
Assistant United States Attorney